



STATE REPRESENTATIVE
FREDERICK P. KESSLER

WISCONSIN STATE ASSEMBLY

12TH DISTRICT

State Representative Frederick P. Kessler
Handouts for Committee
Committee on Judiciary and Ethics
December 15, 2011

Judicial Eligibility Requirements for Neighbor States	1
Judicial Eligibility Requirements for Wisconsin	3
Physician Licensing Requirements	4
Chiropractor Licensing Requirements	5
Dentist Licensing Requirements	6
Funeral Director Licensing Requirements	7
Statutes on Consolidation of Municipal Courts	8



Judicial Eligibility Requirements for the Municipal Courts (or Equivalent) of Wisconsin's Neighboring States

MICHIGAN: Michigan General Code section 730.508 dictates that "no person shall be eligible to qualify for judge of any such court who is not a regularly licensed attorney and counselor at law licensed to practice in the state of Michigan"

730.508 Judges; qualifications, terms, election; compensation, jurisdiction, practice and procedure.

Sec. 8.

The qualifications, term of office, time and manner of election, compensation, jurisdiction, powers and duties of the judges of the municipal court of any city affected by the provisions of this act, and the practice and procedure in such municipal courts, shall be governed by the provisions of existing laws relating to justices of the peace in such cities, and to the practice and procedure in the courts of such justices of the peace, except so far as the same or any part thereof are expressly repealed by or are inconsistent with any of the provisions of this act: Provided, however, That no person shall be eligible to qualify for judge of any such court who is not a regularly licensed attorney and counselor at law licensed to practice in the state of Michigan: Provided further, That any incumbent justice at the effective date of this act who is not an attorney at law shall be eligible for reelection as municipal judge of such court: Provided further, That no municipal judge, associate municipal judge or any partner of such judge or associate judge shall practice law in the court to which he was elected or appointed.

ILLINOIS: – Article VI, Section 11 of the Illinois Constitution requires any judge to be "a licensed attorney-at-law of this State."

SECTION 11. ELIGIBILITY FOR OFFICE

No person shall be eligible to be a Judge or Associate Judge unless he is a United States citizen, a licensed attorney-at-law of this State, and a resident of the unit which selects him. No change in the boundaries of a unit shall affect the tenure in office of a Judge or Associate Judge incumbent at the time of such change.

MINNESOTA: Article VI, Section 5 of the Minnesota Constitution requires all judges to be "learned in the law."

Sec. 5. QUALIFICATIONS; COMPENSATION.

Judges of the supreme court, the court of appeals and the district court shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office. [Amended, November 2, 1982]

"Learned in the law" had been interpreted during the Minnesota Constitutional Convention of 1857 to mean that the individual must be a licensed attorney-at-law.

The debates and proceedings of the Minnesota Constitutional convention (1857), p. 513

Mr. BROWN. I move to strike out the first line of the following Section the words "shall be men learned in the law and":

SEC. 6. The Judges of the Supreme and District Courts shall be men learned in the law, and shall receive such compensation at stated times as may be prescribed by the Legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

If you are going to give the election of Judges to the people, I do not see why you should trammel the people by specifying what sort of men they are to select for Judges. They certainly should have the right to select such men as they see fit, whether learned in the law or not.

Mr. CHASE. I think it very difficult to find any such men who will be candidates before the people.

Mr. FLANDRAU. I think the gentleman from Sibley (Mr. BROWN) must have some personal aspirations for Judgeship. [Laughter.] I suppose the meaning of the term which the gentleman proposes to strike out is that the candidate shall be a Counsellor or Attorney at Law. If he has been admitted to the bar, that is all which will be required.

Mr. EMMETT. That is the legal construction of the term. The amendment was not agreed to.

IOWA: Iowa is the only neighboring state that does not require the equivalent of a municipal court Judge to be an attorney. Iowa Code section 602.1603 specifies that a judge, as opposed to a magistrate (the equivalent of our municipal judges), must be admitted to practice law, so there is no such requirement for magistrates.

602.1603 Judge to be attorney.

A person is not eligible for, and shall not hold the office of supreme court justice, court of appeals judge, district judge, or district associate judge unless admitted to the practice of law in this state.

Judicial Eligibility Requirements for the Municipal Courts of Wisconsin

- There are no formal requirements for municipal court judges beyond an initial orientation and a 4-credit per year continuing education obligation once elected. The general statutory education requirement is in Section 755.18.

755.18 Municipal judge and court clerk training.

- (1) Municipal court clerks and judges shall participate in a program of continuing education as required by the supreme court.
 - (2) Municipalities shall bear the cost of programs under sub. (1) provided by the court. All moneys collected by the supreme court under this section shall be deposited in s. 20.680 (2) (i).
 - (3) This section does not apply to a municipal judge appointed under s. 8.50 (4) (fm) nor to a former municipal judge or former circuit judge to whom cases are assigned under s. 800.06 during the 6-month period following the date on which the judge receives his or her initial assignment.
- The requirement for the initial orientation and more specific outlining of the continuing education requirements, set by Supreme Court Rule, can be found in SCR Chapter 33.

SCR 33.04 Mandatory education.

- (1) Each newly-elected municipal judge shall attend the earliest municipal judge orientation institute offered following his or her election, unless a period of extension is granted by the committee upon prior application by the municipal judge.
- (2) Each municipal judge shall earn at least 4 credits in each 365-day period after commencement of the term for which elected or appointed at a municipal judge orientation institute, review institute or graduate institute developed by the judicial education office. A municipal judge who holds office for less than 5 months during any calendar year is exempt from this subsection.

Requirements for Physician Licensing in Wisconsin
(Information provided by Wisconsin Department of Safety and Professional Services)

1). Complete education requirements.

Graduation from a medical or osteopathic college approved by the board, per Wis Admin Code Med 1.02(2)

2). Take & pass required examinations.

Initial licensure (United States and Canadian graduates): Successful completion of the following examinations:

- 2a. M.D. - take the United States Medical Licensing Examination (USMLE) 3-step sequence. Minimum standard passing scores for each step shall be not less than 75. , Effective May 1, 2007 Applicants shall complete all 3 steps within 10 years from the date upon which he or she first passes a step, either step 1 or step 2.
OR
- 2b. D.O.-take examination required for National Board of Osteopathic Medical Examiners Certification.
- Online open-book examination on the Wisconsin Statutes and Administrative Code. (Required for all applicants)
- Oral Examination -see Med 1.06 and Med 1.08 for list of applicants required to take an oral exam.

3). Completion of 12 months postgraduate AGCME approved training.

4). Complete application forms during first year of residency in anticipation of taking the USMLE Step 3.

5). Board review of application, determination to grant credential.

Requirements for Chiropractor Licensing in Wisconsin
(Information provided by Wisconsin Department of Safety and Professional Services)

1). Complete approved education program.

Must have completed 60 credits of undergraduate work, and have graduated from an accredited chiropractic college. Beginning July 1, 1998, a candidate must have attained a bachelor's degree in addition to the degree of doctor of chiropractic.

2). Pass Parts I, II, III, and IV of National Board of Chiropractic Examiners (NBCE) exam.

3). Complete and submit appropriate application form(s), including all documentation.

- Application for Chiropractic Licensure by Examination
- Application for Chiropractic Licensure by Endorsement (for people licensed in other states)
- Application for Temporary Chiropractic License
- Instructions for Preceptorship Application in Wisconsin
- Application for Nutritional Counseling Certification

4) State Examination Requirements

A. State Jurisprudence Examination

B. State Practical Examination

5). The passage of 2007 Wisconsin Act 104 amends ch. 446, Stats., regulation of chiropractic practice. The effect of the Act requires the Chiropractic Examining Board to amend administrative rules for initial licensure, licensure by endorsement, renewal of licensure and continuing education.

- Therefore, as of September 1, 2008: Initial applicants for licensure as well as endorsement applicants (must hold a valid chiropractic license from another state to qualify) are required to be proficient in the use of automated external defibrillators (AED's) as one of the qualifications for licensure.
- To qualify, applicants must complete a CPR/AED certification program approved by the Wisconsin Department of Health Services (DHS) Please note that qualifying AED training is offered only as a component of DHS approved CPR certification programs.

6). Determination to grant credential is made.

Requirements for Dentist Licensing in Wisconsin

(Information provided by Wisconsin Department of Safety and Professional Services)

- 1). Graduate from a dental school accredited by the American Dental Association Commission on Dental Accreditation.

A foreign trained dentist may qualify for a license if he or she submits to the Board evidence of graduation from a foreign dental school and evidence of the successful completion of an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency, in addition to meeting all other requirements for licensure.

- 2). Complete the appropriate application forms.

- Dental Examination Application
- Dental Application by Endorsement (for people licensed in other states)
- Dental Faculty Application
- Dental Assistant Delegation Form
- Dental Permit to Administer Conscious Sedation
- Temporary Permit to Practice Dentistry without Compensation

- 3). Pass required examinations.

- National Dental Examination
- Examination of a dental testing service approved by the Board.

Effective January 1, 2009 : The Board accepts the following examinations for dentists: CRDTS, WREB, NERB, SRTA, ADEX, and CITA. Parts I and III of ADEX are not required for WREB examinees for examinations taken on or after JANUARY 1, 2009.

- 4). Submit completed application including all required documentation.
- 5). Board review of application, determination to grant credential.

Requirements for Funeral Director Licensing in Wisconsin
(Information provided by Wisconsin Department of Safety and Professional Services)

1) Complete educational requirements.

Applicants must submit evidence of having completed 9 months or more instruction in a prescribed course in a mortuary science school; and two years of academic instruction in a college or university with coursework in specific areas. For details concerning requirements, see ch. FD 1.04, Wisc. Administrative Code.

2) After completing one year of college or university, applicant may contact the Department for an Application for Initial Apprentice Contract and Forms (form #385).

3) Complete the apprenticeship application, required documents and application fee.

4) After completing required education, complete application to sit for the examination. Applicant does not need to have completed the 1 year apprenticeship in order to be eligible to sit for the exams, but must complete the apprenticeship to be eligible for licensure.

5) Submit the Application for Examination (form #1590), required documents and examination fee. The completed application and fee must be received by the Department no later than 30 days before the scheduled examination.

6) Pass the Wisconsin State Laws exam and the National Board exams (Arts & Sciences). The Department will send a licensure application with the examination results.

7) Submit the completed licensure application with the required documents. Apprenticeship must be completed before submitting the licensure application.

CHAPTER 755

MUNICIPAL COURT

755.001 Definitions.
 755.01 Option of municipality.
 755.02 Term.
 755.03 Oath and bond.
 755.04 Salary.
 755.045 Jurisdiction.
 755.05 Territorial jurisdiction.
 755.06 Sessions of court.
 755.09 Office, where kept.
 755.10 Employees.

755.11 Records.
 755.12 Delivery of books to municipal clerk.
 755.13 Books demanded by municipal clerk.
 755.14 Duty of clerk on receipt of books.
 755.15 Pending actions triable by court which receives books.
 755.16 Continuance on vacancy; notice of trial.
 755.17 Municipal court decorum and facilities.
 755.18 Municipal judge and court clerk training.
 755.19 Municipal court commissioners.
 755.21 Collection.

755.001 Definitions. In this chapter:

- (1) "Judge" means municipal judge.
- (2) "Judicial administrative district" means the judicial administrative district having the largest portion of the population in the jurisdiction served by the judge.
- (3) "Records" mean all of the records subject to SCR chapter 72.

History: 1977 c. 305; 2009 a. 402.

755.01 Option of municipality. (1) There is created and established in and for each city, town and village, a municipal court designated "Municipal Court for the(city, town or village) of(name of municipality)". A municipal court created under this subsection is a coequal branch of the municipal government, subject to the superintending authority of the supreme court, through the chief judge of the judicial administrative district. A court shall become operative and function after January 1, 2011, when the city council, town board, or village board adopts an ordinance or bylaw providing for the election of a judge and the operation and maintenance of the court, receives a certification from the chief judge of the judicial administrative district that the court meets the requirements under ss. 755.09, 755.10, 755.11, and 755.17, and provides written notification to the director of state courts of the adoption of the ordinance or bylaw. A permanent vacancy in the office of municipal judge shall be filled under s. 8.50 (4) (fm). Any municipal court established under this section is not a court of record. The court shall be maintained at the expense of the municipality. The municipal governing body shall determine the amount budgeted for court maintenance and operations. The budget of the municipal court shall be separate from, or contained on a separate line item from, the budget or line items of all other municipal departments.

(2) The governing body may by ordinance or bylaw abolish the municipal court as part of a consolidation under s. 66.0229 or at the end of any term for which the judge has been elected or appointed. The governing body may not abolish the municipal court while an agreement under sub. (4) is in effect.

(3) A municipality may establish as many branches of municipal court as it deems necessary.

(4) Two or more cities, towns or villages of this state may enter into an agreement under s. 66.0301 for the joint exercise of the power granted under sub. (1), except that for purposes of this subsection, any agreement under s. 66.0301 shall be effected by the enactment of identical ordinances by each affected city, town or village. Electors of each municipality entering into the agreement shall be eligible to vote for the judge of the municipal court so established. If a municipality enters into an agreement with a municipality that already has a municipal court, the municipalities may provide by ordinance or resolution that the judge for the existing municipal court shall serve as the judge for the joint court until the end of the term or until a special election is held under s. 8.50 (4) (fm). Each municipality shall adopt an ordinance or bylaw

under sub. (1) prior to entering into the agreement. The contracting municipalities need not be contiguous and need not all be in the same county. Upon entering into or discontinuing such an agreement, the contracting municipalities shall each transmit a certified copy of the ordinance or bylaw effecting or discontinuing the agreement to the appropriate filing officer under s. 11.02 (3e) and to the director of state courts. When a municipal judge is elected under this subsection, candidates shall be nominated by filing nomination papers under s. 8.10 (6) (bm), and shall register with the filing officer specified in s. 11.02 (3e).

(5) A municipal court shall appoint a guardian ad litem for any defendant that the court has reason to believe is mentally incompetent. The governing body may by ordinance or bylaw authorize the appointment of a guardian ad litem by the municipal judge in any other matter within the jurisdiction of the municipal court.

NOTE: Sub. (5) was renumbered to s. 800.04 (1) (bm) by 2009 Wis. Act 402 and, as renumbered, was renumbered to s. 800.035 (2m) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.01; 1985 a. 89, 304; 1987 a. 389; 1989 a. 274; 1997 a. 208; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 109; 2009 a. 402.

755.02 Term. The judges shall be elected at large for a term of 4 years unless a different term, not exceeding 4 years nor less than 2 years, is provided by charter ordinance enacted under s. 66.0101. The term shall commence on May 1 of the year of the judge's election.

History: 1977 c. 187 s. 94; 1977 c. 273, 305, 447; Stats. 1977 s. 755.02; 2009 a. 402.

755.03 Oath and bond. (1) The judge shall, after election or appointment, take and file the official oath as prescribed in s. 757.02 (1) and at the same time execute and file an official bond in an amount to be fixed by the governing body. The governing body shall pay the costs of the bond. No judge may act as such until he or she has complied with the requirements of sub. (2).

(2) Within 10 days after a municipal judge takes the oath, the judge shall file the oath and bond with the clerk of the city, town or village where the judge was elected or appointed. If the municipal judge is elected under s. 755.01 (4), the judge shall file copies of the oath and bond with each applicable municipal clerk. The judge shall file a certified copy of the oath with the office of director of state courts within the 10-day time period after the judge takes the oath.

History: 1977 c. 187 s. 94; 1977 c. 305; Stats. 1977 s. 755.03; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1983 a. 192; 1985 a. 89, 304; 2009 a. 402.

755.04 Salary. The governing body shall fix a salary for the judge. The salary may be increased by the governing body before the start of the 2nd or a subsequent year of service of the term of the judge, but shall not be decreased during a term. The salary of a municipal judge who is designated or appointed under s. 8.50 (4) (fm) or 800.06 shall be determined by contract between the municipality and the judge. The judge may not serve until the contract is entered into. Salaries may be paid annually or in equal



122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

To: Assembly Committee on Judiciary and Ethics
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: December 15, 2011
Re: AB 101, Requiring a Municipal Judge to be an Attorney

The League of Wisconsin Municipalities opposes AB 101, mandating that all municipal judges be licensed Wisconsin attorneys. Currently, only 116 of the 239 municipal judges in Wisconsin are lawyers. In part this is because in many communities with a municipal court no lawyers interested in serving as municipal judge reside in the community. If this bill becomes law, many small and medium sized municipalities will be forced to close their municipal courts and return to prosecuting ordinance violations in circuit court.

Current law allows a municipality, when initially creating a municipal court, to require that its municipal judge be a licensed Wisconsin attorney. Some communities have chosen to impose such a qualification on their municipal judge. Most have not, however, and we oppose mandating such a requirement on all municipal courts.

We urge you to vote against recommending passage of AB 101. Thanks for considering our concerns.